

REMARKS

This application has been amended in a manner that is believed to place it in condition for allowance at the time of the next Official Action.

Claims 42-62 are pending in the present application. Claims 42-58 are directed to a method for treating a person having a vascular disorder, wherein said person has or is at risk of developing unipolar depression. Claims 59-60 are directed to a method for treating a person having or at risk of developing unipolar depression. New claims 61-63 have been added to vary the scope of the claimed invention. Support for new claims 61 -63 may be found generally throughout the specification.

In the outstanding Official Action, claims 42-60 were rejected under 35 USC §112, first paragraph, for allegedly not satisfying the enablement requirement. This rejection is respectfully traversed.

In imposing the rejection, applicant notes with appreciation the indication by the Examiner that the present disclosure is enabling for a method for treating unipolar depression. Accordingly, independent claims 42, 55, and 57 have been amended to recite methods for treating unipolar depression.

However, applicant notes that claim 59 recites a method for treating a person having or at risk of developing unipolar depression. The Official Action alleges that the recitation is tantamount to "preventing" unipolar depression. While the

applicant does not disclaim any potential application or utilities for any of the invention recited in the claims, applicant notes that the term "prevention" is not recited in the claims. As claim 59 plainly recites a method for treating a person having or at risk of developing unipolar depression, the interpretation taken by the Official Action is without basis.

Moreover, the Official Action states that the specification does not identify the patients that may be at risk of developing such disorders, applicant's note that claims 42-58 recite a method for treating a person having a vascular disorder, wherein said person has or is at risk of developing unipolar depression.

However, the present specification at page 3, line 17 to page 5, line 18, discusses subjects that may be prone to developing depression. Thus, the present disclosure does identify those who are at risk of developing such disorders. Moreover, patients susceptible to unipolar depression would be within the ability of one of ordinary skill in the art to identify those persons who are susceptible to depression and depression-related disorders. Indeed, the Office Action does not present any evidence to the contrary.

Thus, in view of the above, applicants believe that the present disclosure is enabling for the claimed invention.

In the outstanding Official Action, claims 42-48 and 51-60 were rejected under 35 USC §103(a) as allegedly being unpatentable over HORROBIN, FUGH-BERMAN, MAGGIONI and GROWDON.

As previously noted, applicant believes that one skilled in the art would lack the motivation to combine and modify the publications in a manner so as to obtain the claimed invention. While individual components may be discussed, there is simply no motivation to select the claimed combination, claimed amounts, or claimed ratios.

None of the cited publications teach or characterize the claimed amounts and/or ratios as capable of being optimized. Moreover, the Official Action does not present any evidence that these parameters would be considered as result-effective to one skilled in the art.

The applicant also notes that a declaration was submitted in the amendment of December 10, 2004. The declaration shows that the combination of the invention is unexpectedly effective for the treatment of depression and its related disorders. The results indicates that the claimed combination of fatty acids, phospholipids and methionine metabolism factors is better than a diet of fatty acids, a diet of vitamins and fatty acids, and a diet of vitamins and fatty acids supplemented with w-3 fatty acids DHA and EPA. Thus, the applicant does not believe that none of the cited publications disclose or suggest the unexpected results exhibited by the claimed invention.

Thus, in view of the above, applicants believe that the proposed combination fails to render obvious the claimed invention.

In the outstanding Official Action, claim 49 was rejected as allegedly being unpatentable over HORROBIN, GROWDON and POLLACK. This rejection is respectfully traversed.

As noted previously, applicants believe that Pollack fails to remedy the deficiencies of HORROBIN with GROWDON et al. POLLACK et al. teaches a composition for treating physiological disorders pertaining to the regulation of the neurotransmitter serotonin. POLLACK et al. does not suggest a method for treating depression by administering to a patient in need thereof a composition containing the claimed components, amounts and ratios.

Thus, applicants believe that POLLACK et al. fail to remedy the deficiencies of HORROBIN and GROWDON et al.

Claim 50 was rejected under 35 USC §103(a) as allegedly being unpatentable over HORROBIN, GROWDON et al. and TAKEDA. This rejection is respectfully traversed.

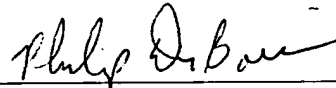
It is believed that the TAKEDA publication fails to remedy the deficiencies of HORROBIN and GROWDON et al. simply does not teach the claimed components, amounts or ratios. Thus, in view of the above, applicants request that the rejection be withdrawn.

In view of the foregoing remarks and the present amendment, therefore, applicants believe that the present application is in condition for allowance at the time of the next Official Action, with claims 42-60, as presented. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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